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INTERTRUST TECHNOLOGIES CORPORATION

11  
12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14

15 INTERTRUST TECHNOLOGIES  
CORPORATION, a Delaware corporation,  
16  
Plaintiff,

17 v.

18 MICROSOFT CORPORATION, a  
19 Washington corporation,

20 Defendant.

21 AND COUNTER ACTION.  
22

Case No. C 01-1640 SBA (MEJ)

Consolidated with C 02-0647 SBA

FOURTH AMENDED COMPLAINT FOR  
INFRINGEMENT OF U.S. PATENT NOS.  
6,185,683 B1; 6,253,193 B1; 5,920,861;  
5,892,900; 5,982,891; 5,917,912; 6,157,721;  
5,915,019; 5,949,876; 6,112,181; AND  
6,389,402 B1.

DEMAND FOR JURY TRIAL

23  
24 Plaintiff INTERTRUST TECHNOLOGIES CORPORATION (hereafter "InterTrust")  
25 hereby complains of Defendant MICROSOFT CORPORATION (hereafter "Microsoft"), and  
26 alleges as follows:

27 JURISDICTION AND VENUE

28 1. This action for patent infringement arises under the patent laws of the United

1 States, Title 35, United States Code, more particularly 35 U.S.C. §§ 271 and 281.

2 2. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

3 3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

4 **THE PARTIES**

5 4. Plaintiff InterTrust is a Delaware corporation with its principal place of business  
6 at 4750 Patrick Henry Drive, Santa Clara, California.

7 5. InterTrust is informed and believes, and on that basis alleges, that Defendant  
8 Microsoft is a Washington Corporation with its principal place of business at One Microsoft  
9 Way, Redmond, Washington.

10 6. InterTrust is informed and believes, and on that basis alleges, that Defendant  
11 Microsoft does business in this judicial district and has committed and is continuing to commit  
12 acts of infringement in this judicial district.

13 7. InterTrust is the owner of United States Patent No. 6,185,683 B1, entitled  
14 "Trusted and secure techniques, systems and methods for item delivery and execution" ("the  
15 '683 patent"), duly and lawfully issued on February 6, 2001.

16 8. InterTrust is the owner of United States Patent No. 6,253,193 B1, entitled  
17 "Systems and methods for secure transaction management and electronic rights protection" ("the  
18 '193 patent"), duly and lawfully issued on June 26, 2001.

19 9. InterTrust is the owner of United States Patent No. 5,920,861, entitled  
20 "Techniques for defining, using and manipulating rights management data structures" ("the '861  
21 patent"), duly and lawfully issued on July 6, 1999.

22 10. InterTrust is the owner of United States Patent No. 5,892,900, entitled "Systems  
23 and methods for secure transaction management and electronic rights protection" ("the '900  
24 patent"), duly and lawfully issued on April 6, 1999.

25 11. InterTrust is the owner of United States Patent No. 5,982,891, entitled "Systems  
26 and methods for secure transaction management and electronic rights protection" ("the '891  
27 patent"), duly and lawfully issued on November 9, 1999.

28 12. InterTrust is the owner of United States Patent No. 5,917,912 entitled "System

1 and methods for secure transaction management and electronic rights protection" ("the '912  
2 patent"), duly and lawfully issued on June 29, 1999.

3 13. InterTrust is the owner of United States Patent No. 6,157,721, entitled "Systems  
4 and methods using cryptography to protect secure computing environments" ("the '721 patent"),  
5 duly and lawfully issued on December 5, 2000.

6 14. InterTrust is the owner of United States Patent No. 5,915,019, entitled "Systems  
7 and methods for secure transaction management and electronic rights protection" (the '019  
8 patent"), duly and lawfully issued on June 22, 1999.

9 15. InterTrust is the owner of United States Patent No. 5,949,876, entitled "Systems  
10 and methods for secure transaction management and electronic rights protection" ("the '876  
11 patent"), duly and lawfully issued on September 7, 1999.

12 16. InterTrust is the owner of United States Patent No. 6,112,181, entitled "Systems  
13 and methods for matching, selecting, narrowcasting, and/or classifying based on rights  
14 management and/or other information" ("the '181 patent"), duly and lawfully issued on August  
15 29, 2000.

16 17. InterTrust is the owner of United States Patent No. 6,389,402 B1, entitled  
17 "Systems and methods for secure transaction management and electronic rights protection" ("the  
18 '402 patent"), duly and lawfully issued on May 14, 2002.

19 **FIRST CLAIM FOR RELIEF**

20 18. InterTrust hereby incorporates by reference paragraphs 1-7 as if restated herein.

21 19. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

22 20. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
23 been and is infringing the '683 patent under § 271(a), as identified in InterTrust's Patent Local  
24 Rule 3-1 disclosures served on Microsoft on June 21, 2002. In addition, on information and  
25 belief, InterTrust alleges that Microsoft is making and using other systems and/or is in the  
26 process of developing other systems, which infringe the '683 patent under § 271(a). InterTrust is  
27 further informed and believes, and on that basis alleges, that Microsoft's infringement of the  
28 '683 patent under § 271(a) will continue unless enjoined by this Court.

1           21. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
2 been and is knowingly and intentionally inducing others to infringe directly the '683 patent under  
3 § 271(a), thereby inducing infringement of the '683 patent under § 271(b). InterTrust is further  
4 informed and believes that Microsoft's inducement has at least included the manner in which  
5 Microsoft has promoted and marketed use of its software and services identified in InterTrust's  
6 Patent Local Rule 3-1 disclosures served on Microsoft on June 21, 2002. InterTrust is further  
7 informed and believes, and on that basis alleges, that Microsoft's infringement of the '683 patent  
8 under § 271(b) will continue unless enjoined by this Court.

9           22. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
10 been and is contributorily infringing the '683 patent under § 271(c) by providing software and  
11 services especially made or especially adapted for infringing use and not staple articles or  
12 commodities of commerce suitable for substantial noninfringing use, including at least the  
13 software and services identified in InterTrust's Patent Local Rule 3-1 disclosures served on  
14 Microsoft on June 21, 2002.. InterTrust is further informed and believes, and on that basis  
15 alleges, that Microsoft's infringement of the '683 patent under § 271(c) will continue unless  
16 enjoined by this Court.

17           23. InterTrust is informed and believes, and on that basis alleges, that Microsoft is  
18 willfully infringing the '683 patent in the manner described above in paragraphs 20 through 22,  
19 and will continue to do so unless enjoined by this Court.

20           24. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
21 derived and received, and will continue to derive and receive from the aforesaid acts of  
22 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not  
23 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has  
24 been, and will continue to be, irreparably harmed.

25                           **SECOND CLAIM FOR RELIEF**

26           25. InterTrust hereby incorporates by reference paragraphs 1-6 and 8 as if restated  
27 herein.

28           26. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

1           27. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
2 been and is infringing the '193 patent under § 271(a), as identified in InterTrust's Patent Local  
3 Rule 3-1 disclosures served on Microsoft on June 21, 2002. In addition, on information and  
4 belief, InterTrust alleges that Microsoft is making and using other systems and/or is in the  
5 process of developing other systems, which infringe the '193 patent under § 271(a). InterTrust is  
6 further informed and believes, and on that basis alleges, that Microsoft's infringement of the  
7 '193 patent under § 271(a) will continue unless enjoined by this Court.

8           28. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
9 been and is knowingly and intentionally inducing others to infringe directly the '193 patent under  
10 § 271(a), thereby inducing infringement of the '193 patent under § 271(b). InterTrust is further  
11 informed and believes that Microsoft's inducement has at least included the manner in which  
12 Microsoft has promoted and marketed use of its software and services identified in InterTrust's  
13 Patent Local Rule 3-1 disclosures served on Microsoft on June 21, 2002. InterTrust is further  
14 informed and believes, and on that basis alleges, that Microsoft's infringement of the '193 patent  
15 under § 271(b) will continue unless enjoined by this Court.

16           29. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
17 been and is contributorily infringing the '193 patent under § 271(c) by providing software and  
18 services especially made or especially adapted for infringing use and not staple articles or  
19 commodities of commerce suitable for substantial noninfringing use, including at least the  
20 software and services identified in InterTrust's Patent Local Rule 3-1 disclosures served on  
21 Microsoft on June 21, 2002.. InterTrust is further informed and believes, and on that basis  
22 alleges, that Microsoft's infringement of the '193 patent under § 271(c) will continue unless  
23 enjoined by this Court.

24           30. InterTrust is informed and believes, and on that basis alleges, that Microsoft is  
25 willfully infringing the '193 patent in the manner described above in paragraphs 27 through 29,  
26 and will continue to do so unless enjoined by this Court.

27           31. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
28 derived and received, and will continue to derive and receive from the aforesaid acts of

1 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not  
2 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has  
3 been, and will continue to be, irreparably harmed.

4 **THIRD CLAIM FOR RELIEF**

5 32. InterTrust hereby incorporates by reference paragraphs 1-6 and 9 as if restated  
6 herein.

7 33. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

8 34. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
9 been and is infringing the '861 patent under § 271(a), as identified in InterTrust's Patent Local  
10 Rule 3-1 disclosures served on Microsoft on June 21, 2002. In addition, on information and  
11 belief, InterTrust alleges that Microsoft is making and using other systems and/or is in the  
12 process of developing other systems, which infringe the '861 patent under § 271(a). InterTrust is  
13 further informed and believes, and on that basis alleges, that Microsoft's infringement of the  
14 '861 patent under § 271(a) will continue unless enjoined by this Court.

15 35. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
16 been and is knowingly and intentionally inducing others to infringe directly the '861 patent under  
17 § 271(a), thereby inducing infringement of the '861 patent under § 271(b). InterTrust is further  
18 informed and believes that Microsoft's inducement has at least included the manner in which  
19 Microsoft has promoted and marketed use of its software and services identified in InterTrust's  
20 Patent Local Rule 3-1 disclosures served on Microsoft on June 21, 2002. InterTrust is further  
21 informed and believes, and on that basis alleges, that Microsoft's infringement of the '861 patent  
22 under § 271(b) will continue unless enjoined by this Court.

23 36. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
24 been and is contributorily infringing the '861 patent under § 271(c) by providing software and  
25 services especially made or especially adapted for infringing use and not staple articles or  
26 commodities of commerce suitable for substantial noninfringing use, including at least the  
27 software and services identified in InterTrust's Patent Local Rule 3-1 disclosures served on  
28 Microsoft on June 21, 2002.. InterTrust is further informed and believes, and on that basis

1 alleges, that Microsoft's infringement of the '861 patent under § 271(c) will continue unless  
2 enjoined by this Court.

3 37. InterTrust is informed and believes, and on that basis alleges, that Microsoft is  
4 willfully infringing the '861 patent in the manner described above in paragraphs 34 through 36,  
5 and will continue to do so unless enjoined by this Court.

6 38. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
7 derived and received, and will continue to derive and receive from the aforesaid acts of  
8 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not  
9 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has  
10 been, and will continue to be, irreparably harmed.

11 **FOURTH CLAIM FOR RELIEF**

12 39. InterTrust hereby incorporates by reference paragraphs 1-6 and 10 as if restated  
13 herein.

14 40. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

15 41. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
16 been and is infringing the '900 patent under § 271(a), as identified in InterTrust's Patent Local  
17 Rule 3-1 disclosures served on Microsoft on June 21, 2002. In addition, on information and  
18 belief, InterTrust alleges that Microsoft is making and using other systems and/or is in the  
19 process of developing other systems, which infringe the '900 patent under § 271(a). InterTrust is  
20 further informed and believes, and on that basis alleges, that Microsoft's infringement of the  
21 '900 patent under § 271(a) will continue unless enjoined by this Court.

22 42. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
23 been and is knowingly and intentionally inducing others to infringe directly the '900 patent under  
24 § 271(a), thereby inducing infringement of the '900 patent under § 271(b). InterTrust is further  
25 informed and believes that Microsoft's inducement has at least included the manner in which  
26 Microsoft has promoted and marketed use of its software and services identified in InterTrust's  
27 Patent Local Rule 3-1 disclosures served on Microsoft on June 21, 2002. InterTrust is further  
28 informed and believes, and on that basis alleges, that Microsoft's infringement of the '900 patent

1 under § 271(b) will continue unless enjoined by this Court.

2 43. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
3 been and is contributorily infringing the '900 patent under § 271(c) by providing software and  
4 services especially made or especially adapted for infringing use and not staple articles or  
5 commodities of commerce suitable for substantial noninfringing use, including at least the  
6 software and services identified in InterTrust's Patent Local Rule 3-1 disclosures served on  
7 Microsoft on June 21, 2002.. InterTrust is further informed and believes, and on that basis  
8 alleges, that Microsoft's infringement of the '900 patent under § 271(c) will continue unless  
9 enjoined by this Court.

10 44. InterTrust is informed and believes, and on that basis alleges, that Microsoft is  
11 willfully infringing the '900 patent in the manner described above in paragraphs 41 through 43,  
12 and will continue to do so unless enjoined by this Court.

13 45. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
14 derived and received, and will continue to derive and receive from the aforesaid acts of  
15 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not  
16 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has  
17 been, and will continue to be, irreparably harmed.

18 **FIFTH CLAIM FOR RELIEF**

19 46. InterTrust hereby incorporates by reference paragraphs 1-6 and 11 as if restated  
20 herein.

21 47. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

22 48. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
23 been and is infringing the '891 patent under § 271(a), as identified in InterTrust's Patent Local  
24 Rule 3-1 disclosures served on Microsoft on June 21, 2002. In addition, on information and  
25 belief, InterTrust alleges that Microsoft is making and using other systems and/or is in the  
26 process of developing other systems, which infringe the '891 patent under § 271(a). InterTrust is  
27 further informed and believes, and on that basis alleges, that Microsoft's infringement of the  
28 '891 patent under § 271(a) will continue unless enjoined by this Court.



1           49. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
2 been and is knowingly and intentionally inducing others to infringe directly the '891 patent under  
3 § 271(a), thereby inducing infringement of the '891 patent under § 271(b). InterTrust is further  
4 informed and believes that Microsoft's inducement has at least included the manner in which  
5 Microsoft has promoted and marketed use of its software and services identified in InterTrust's  
6 Patent Local Rule 3-1 disclosures served on Microsoft on June 21, 2002. InterTrust is further  
7 informed and believes, and on that basis alleges, that Microsoft's infringement of the '891 patent  
8 under § 271(b) will continue unless enjoined by this Court.

9           50. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
10 been and is contributorily infringing the '891 patent under § 271(c) by providing software and  
11 services especially made or especially adapted for infringing use and not staple articles or  
12 commodities of commerce suitable for substantial noninfringing use, including at least the  
13 software and services identified in InterTrust's Patent Local Rule 3-1 disclosures served on  
14 Microsoft on June 21, 2002.. InterTrust is further informed and believes, and on that basis  
15 alleges, that Microsoft's infringement of the '891 patent under § 271(c) will continue unless  
16 enjoined by this Court.

17           51. InterTrust is informed and believes, and on that basis alleges, that Microsoft is  
18 willfully infringing the '891 patent in the manner described above in paragraphs 48 through 50,  
19 and will continue to do so unless enjoined by this Court.

20           52. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
21 derived and received, and will continue to derive and receive from the aforesaid acts of  
22 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not  
23 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has  
24 been, and will continue to be, irreparably harmed.

25                           **SIXTH CLAIM FOR RELIEF**

26           53. InterTrust hereby incorporates by reference paragraphs 1-6 and 12 as if restated  
27 herein.

28           54. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

1           55. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
2 been and is infringing the '912 patent under § 271(a), as identified in InterTrust's Patent Local  
3 Rule 3-1 disclosures served on Microsoft on June 21, 2002. In addition, on information and  
4 belief, InterTrust alleges that Microsoft is making and using other systems and/or is in the  
5 process of developing other systems, which infringe the '912 patent under § 271(a). InterTrust is  
6 further informed and believes, and on that basis alleges, that Microsoft's infringement of the  
7 '912 patent under § 271(a) will continue unless enjoined by this Court.

8           56. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
9 been and is knowingly and intentionally inducing others to infringe directly the '912 patent under  
10 § 271(a), thereby inducing infringement of the '912 patent under § 271(b). InterTrust is further  
11 informed and believes that Microsoft's inducement has at least included the manner in which  
12 Microsoft has promoted and marketed use of its software and services identified in InterTrust's  
13 Patent Local Rule 3-1 disclosures served on Microsoft on June 21, 2002. InterTrust is further  
14 informed and believes, and on that basis alleges, that Microsoft's infringement of the '912 patent  
15 under § 271(b) will continue unless enjoined by this Court.

16           57. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
17 been and is contributorily infringing the '912 patent under § 271(c) by providing software and  
18 services especially made or especially adapted for infringing use and not staple articles or  
19 commodities of commerce suitable for substantial noninfringing use, including at least the  
20 software and services identified in InterTrust's Patent Local Rule 3-1 disclosures served on  
21 Microsoft on June 21, 2002.. InterTrust is further informed and believes, and on that basis  
22 alleges, that Microsoft's infringement of the '912 patent under § 271(c) will continue unless  
23 enjoined by this Court.

24           58. InterTrust is informed and believes, and on that basis alleges, that Microsoft is  
25 willfully infringing the '912 patent in the manner described above in paragraphs 55 through 57,  
26 and will continue to do so unless enjoined by this Court.

27           59. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
28 derived and received, and will continue to derive and receive from the aforesaid acts of

1 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not  
2 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has  
3 been, and will continue to be, irreparably harmed.

4 **SEVENTH CLAIM FOR RELIEF**

5 60. InterTrust hereby incorporates by reference paragraphs 1-6 and 13 as if restated  
6 herein.

7 61. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

8 62. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
9 been and is infringing the '721 patent under § 271(a), as identified in InterTrust's Patent Local  
10 Rule 3-1 disclosures served on Microsoft on June 21, 2002. In addition, on information and  
11 belief, InterTrust alleges that Microsoft is making and using other systems and/or is in the  
12 process of developing other systems, which infringe the '721 patent under § 271(a). InterTrust is  
13 further informed and believes, and on that basis alleges, that Microsoft's infringement of the  
14 '721 patent under § 271(a) will continue unless enjoined by this Court.

15 63. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
16 been and is knowingly and intentionally inducing others to infringe directly the '721 patent under  
17 § 271(a), thereby inducing infringement of the '721 patent under § 271(b). InterTrust is further  
18 informed and believes that Microsoft's inducement has at least included the manner in which  
19 Microsoft has promoted and marketed use of its software and services identified in InterTrust's  
20 Patent Local Rule 3-1 disclosures served on Microsoft on June 21, 2002. InterTrust is further  
21 informed and believes, and on that basis alleges, that Microsoft's infringement of the '721 patent  
22 under § 271(b) will continue unless enjoined by this Court.

23 64. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
24 been and is contributorily infringing the '721 patent under § 271(c) by providing software and  
25 services especially made or especially adapted for infringing use and not staple articles or  
26 commodities of commerce suitable for substantial noninfringing use, including at least the  
27 software and services identified in InterTrust's Patent Local Rule 3-1 disclosures served on  
28 Microsoft on June 21, 2002.. InterTrust is further informed and believes, and on that basis

1 alleges, that Microsoft's infringement of the '721 patent under § 271(c) will continue unless  
2 enjoined by this Court.

3 65. InterTrust is informed and believes, and on that basis alleges, that Microsoft is  
4 willfully infringing the '721 patent in the manner described above in paragraphs 62 through 64,  
5 and will continue to do so unless enjoined by this Court.

6 66. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
7 derived and received, and will continue to derive and receive from the aforesaid acts of  
8 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not  
9 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has  
10 been, and will continue to be, irreparably harmed.

11 **EIGHTH CLAIM FOR RELIEF**

12 67. InterTrust hereby incorporates by reference paragraphs 1-6 and 14 as if restated  
13 herein.

14 68. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

15 69. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
16 been and is infringing the '019 patent under § 271(a), as identified in InterTrust's Draft Claim  
17 Charts presented to Microsoft on June 21, 2002. In addition, on information and belief,  
18 InterTrust alleges that Microsoft is making and using other systems and/or is in the process of  
19 developing other systems, which infringe the '019 patent under § 271(a). InterTrust is further  
20 informed and believes, and on that basis alleges, that Microsoft's infringement of the '019 patent  
21 under § 271(a) will continue unless enjoined by this Court.

22 70. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
23 been and is knowingly and intentionally inducing others to infringe directly the '019 patent under  
24 § 271(a), thereby inducing infringement of the '019 patent under § 271(b). InterTrust is further  
25 informed and believes that Microsoft's inducement has at least included the manner in which  
26 Microsoft has promoted and marketed use of its software and services identified in InterTrust's  
27 Draft Claim Charts presented to Microsoft on June 21, 2002. InterTrust is further informed and  
28 believes, and on that basis alleges, that Microsoft's infringement of the '019 patent under §

1 271(b) will continue unless enjoined by this Court.

2 71. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
3 been and is contributorily infringing the '019 patent under § 271(c) by providing software and  
4 services especially made or especially adapted for infringing use and not staple articles or  
5 commodities of commerce suitable for substantial noninfringing use, including at least the  
6 software and services identified in InterTrust's Draft Claim Charts presented to Microsoft on  
7 June 21, 2002.. InterTrust is further informed and believes, and on that basis alleges, that  
8 Microsoft's infringement of the '019 patent under § 271(c) will continue unless enjoined by this  
9 Court.

10 72. InterTrust is informed and believes, and on that basis alleges, that Microsoft is  
11 willfully infringing the '019 patent in the manner described above in paragraphs 69 through 71,  
12 and will continue to do so unless enjoined by this Court.

13 73. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
14 derived and received, and will continue to derive and receive from the aforesaid acts of  
15 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not  
16 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has  
17 been, and will continue to be, irreparably harmed.

18 **NINTH CLAIM FOR RELIEF**

19 74. InterTrust hereby incorporates by reference paragraphs 1-6 and 15 as if restated  
20 herein.

21 75. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

22 76. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
23 been and is infringing the '876 patent under § 271(a), as identified in InterTrust's Draft Claim  
24 Charts presented to Microsoft on June 21, 2002. In addition, on information and belief,  
25 InterTrust alleges that Microsoft is making and using other systems and/or is in the process of  
26 developing other systems, which infringe the '876 patent under § 271(a). InterTrust is further  
27 informed and believes, and on that basis alleges, that Microsoft's infringement of the '876 patent  
28 under § 271(a) will continue unless enjoined by this Court.

1 77. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
2 been and is knowingly and intentionally inducing others to infringe directly the '876 patent under  
3 § 271(a), thereby inducing infringement of the '876 patent under § 271(b). InterTrust is further  
4 informed and believes that Microsoft's inducement has at least included the manner in which  
5 Microsoft has promoted and marketed use of its software and services identified in InterTrust's  
6 Draft Claim Charts presented to Microsoft on June 21, 2002. InterTrust is further informed and  
7 believes, and on that basis alleges, that Microsoft's infringement of the '876 patent under §  
8 271(b) will continue unless enjoined by this Court.

9 78. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
10 been and is contributorily infringing the '876 patent under § 271(c) by providing software and  
11 services especially made or especially adapted for infringing use and not staple articles or  
12 commodities of commerce suitable for substantial noninfringing use, including at least the  
13 software and services identified in InterTrust's Draft Claim Charts presented to Microsoft on  
14 June 21, 2002. InterTrust is further informed and believes, and on that basis alleges, that  
15 Microsoft's infringement of the '876 patent under § 271(c) will continue unless enjoined by this  
16 Court.

17 79. InterTrust is informed and believes, and on that basis alleges, that Microsoft is  
18 willfully infringing the '876 patent in the manner described above in paragraphs 76 through 78,  
19 and will continue to do so unless enjoined by this Court.

20 80. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
21 derived and received, and will continue to derive and receive from the aforesaid acts of  
22 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not  
23 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has  
24 been, and will continue to be, irreparably harmed.

25 **TENTH CLAIM FOR RELIEF**

26 81. InterTrust hereby incorporates by reference paragraphs 1-6 and 16 as if restated  
27 herein.

28 82. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

1           83. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
2 been and is infringing the '181 patent under § 271(a), as identified in InterTrust's Draft Claim  
3 Charts presented to Microsoft on June 21, 2002. In addition, on information and belief,  
4 InterTrust alleges that Microsoft is making and using other systems and/or is in the process of  
5 developing other systems, which infringe the '181 patent under § 271(a). InterTrust is further  
6 informed and believes, and on that basis alleges, that Microsoft's infringement of the '181 patent  
7 under § 271(a) will continue unless enjoined by this Court.

8           84. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
9 been and is knowingly and intentionally inducing others to infringe directly the '181 patent under  
10 § 271(a), thereby inducing infringement of the '181 patent under § 271(b). InterTrust is further  
11 informed and believes that Microsoft's inducement has at least included the manner in which  
12 Microsoft has promoted and marketed use of its software and services identified in InterTrust's  
13 Draft Claim Charts presented to Microsoft on June 21, 2002. InterTrust is further informed and  
14 believes, and on that basis alleges, that Microsoft's infringement of the '181 patent under §  
15 271(b) will continue unless enjoined by this Court.

16           85. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
17 been and is contributorily infringing the '181 patent under § 271(c) by providing software and  
18 services especially made or especially adapted for infringing use and not staple articles or  
19 commodities of commerce suitable for substantial noninfringing use, including at least the  
20 software and services identified in InterTrust's Draft Claim Charts presented to Microsoft on  
21 June 21, 2002. InterTrust is further informed and believes, and on that basis alleges, that  
22 Microsoft's infringement of the '181 patent under § 271(c) will continue unless enjoined by this  
23 Court.

24           86. InterTrust is informed and believes, and on that basis alleges, that Microsoft is  
25 willfully infringing the '181 patent in the manner described above in paragraphs 83 through 85,  
26 and will continue to do so unless enjoined by this Court.

27           87. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
28 derived and received, and will continue to derive and receive from the aforesaid acts of

1 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not  
2 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has  
3 been, and will continue to be, irreparably harmed.

4 **ELEVENTH CLAIM FOR RELIEF**

5 88. InterTrust hereby incorporates by reference paragraphs 1-6 and 17 as if restated  
6 herein.

7 89. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.

8 90. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
9 been and is infringing the '402 patent under § 271(a), as identified in InterTrust's Draft Claim  
10 Charts presented to Microsoft on June 21, 2002. In addition, on information and belief,  
11 InterTrust alleges that Microsoft is making and using other systems and/or is in the process of  
12 developing other systems, which infringe the '402 patent under § 271(a). InterTrust is further  
13 informed and believes, and on that basis alleges, that Microsoft's infringement of the '402 patent  
14 under § 271(a) will continue unless enjoined by this Court.

15 91. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
16 been and is knowingly and intentionally inducing others to infringe directly the '402 patent under  
17 § 271(a), thereby inducing infringement of the '402 patent under § 271(b). InterTrust is further  
18 informed and believes that Microsoft's inducement has at least included the manner in which  
19 Microsoft has promoted and marketed use of its software and services identified in InterTrust's  
20 Draft Claim Charts presented to Microsoft on June 21, 2002. InterTrust is further informed and  
21 believes, and on that basis alleges, that Microsoft's infringement of the '402 patent under §  
22 271(b) will continue unless enjoined by this Court.

23 92. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
24 been and is contributorily infringing the '402 patent under § 271(c) by providing software and  
25 services especially made or especially adapted for infringing use and not staple articles or  
26 commodities of commerce suitable for substantial noninfringing use, including at least the  
27 software and services identified in InterTrust's Draft Claim Charts presented to Microsoft on  
28 June 21, 2002. InterTrust is further informed and believes, and on that basis alleges, that



1 Microsoft's infringement of the '402 patent under § 271(c) will continue unless enjoined by this  
2 Court.

3 93. InterTrust is informed and believes, and on that basis alleges, that Microsoft is  
4 willfully infringing the '402 patent in the manner described above in paragraphs 90 through 92,  
5 and will continue to do so unless enjoined by this Court.

6 94. InterTrust is informed and believes, and on that basis alleges, that Microsoft has  
7 derived and received, and will continue to derive and receive from the aforesaid acts of  
8 infringement gains, profits, and advantages, tangible and intangible, the extent of which are not  
9 presently known to InterTrust. By reason of the aforesaid acts of infringement, InterTrust has  
10 been, and will continue to be, irreparably harmed.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, InterTrust prays for relief as follows:

13 A. That Microsoft be adjudged to have infringed the '683 patent under 35 U.S.C. §  
14 271(a);

15 B. That Microsoft be adjudged to have infringed the '683 patent under 35 U.S.C. §  
16 271(b) by inducing others to infringe directly the '683 patent under 35 U.S.C. § 271(a);

17 C. That Microsoft be adjudged to have contributorily infringed the '683 patent under  
18 35 U.S.C. § 271(c);

19 D. That Microsoft be adjudged to have willfully infringed the '683 patent under 35  
20 U.S.C. §§ 271(a), (b), and (c);

21 E. That Microsoft, its officers, agents, servants, employees and attorneys, and those  
22 persons in active concert or participation with them be preliminarily and permanently restrained  
23 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '683 patent;

24 F. That Microsoft be adjudged to have infringed the '193 patent under 35 U.S.C. §  
25 271(a);

26 G. That Microsoft be adjudged to have infringed the '193 patent under 35 U.S.C. §  
27 271(b) by inducing others to infringe directly the '193 patent under 35 U.S.C. § 271(a);

28 ///

1 H. That Microsoft be adjudged to have contributorily infringed the '193 patent under  
2 35 U.S.C. § 271(c);

3 I. That Microsoft be adjudged to have willfully infringed the '193 patent under 35  
4 U.S.C. §§ 271(a), (b), and (c);

5 J. That Microsoft, its officers, agents, servants, employees and attorneys, and those  
6 persons in active concert or participation with them be preliminarily and permanently restrained  
7 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '193 patent;

8 K. That Microsoft be adjudged to have infringed the '861 patent under 35 U.S.C. §  
9 271(a);

10 L. That Microsoft be adjudged to have infringed the '861 patent under 35 U.S.C. §  
11 271(b) by inducing others to infringe directly the '861 patent under 35 U.S.C. § 271(a);

12 M. That Microsoft be adjudged to have contributorily infringed the '861 patent under  
13 35 U.S.C. § 271(c);

14 N. That Microsoft be adjudged to have willfully infringed the '861 patent under 35  
15 U.S.C. §§ 271(a), (b), and (c);

16 O. That Microsoft, its officers, agents, servants, employees and attorneys, and those  
17 persons in active concert or participation with them be preliminarily and permanently restrained  
18 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '861 patent;

19 P. That Microsoft be adjudged to have infringed the '900 patent under 35 U.S.C. §  
20 271(a);

21 Q. That Microsoft be adjudged to have infringed the '900 patent under 35 U.S.C. §  
22 271(b) by inducing others to infringe directly the '900 patent under 35 U.S.C. § 271(a);

23 R. That Microsoft be adjudged to have contributorily infringed the '900 patent under  
24 35 U.S.C. § 271(c);

25 S. That Microsoft be adjudged to have willfully infringed the '900 patent under 35  
26 U.S.C. §§ 271(a), (b), and (c);

27 T. That Microsoft, its officers, agents, servants, employees and attorneys, and those  
28 persons in active concert or participation with them be preliminarily and permanently restrained

1 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '900 patent;

2 U. That Microsoft be adjudged to have infringed the '891 patent under 35 U.S.C. §  
3 271(a);

4 V. That Microsoft be adjudged to have infringed the '891 patent under 35 U.S.C. §  
5 271(b) by inducing others to infringe directly the '891 patent under 35 U.S.C. § 271(a);

6 W. That Microsoft be adjudged to have contributorily infringed the '891 patent under  
7 35 U.S.C. § 271(c);

8 X. That Microsoft be adjudged to have willfully infringed the '891 patent under 35  
9 U.S.C. §§ 271(a), (b), and (c);

10 Y. That Microsoft, its officers, agents, servants, employees and attorneys, and those  
11 persons in active concert or participation with them be preliminarily and permanently restrained  
12 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '891 patent;

13 Z. That Microsoft be adjudged to have infringed the '912 patent under 35 U.S.C. §  
14 271(a);

15 AA. That Microsoft be adjudged to have infringed the '912 patent under 35 U.S.C. §  
16 271(b) by inducing others to infringe directly the '912 patent under 35 U.S.C. § 271(a);

17 BB. That Microsoft be adjudged to have contributorily infringed the '912 patent under  
18 35 U.S.C. § 271(c);

19 CC. That Microsoft be adjudged to have willfully infringed the '912 patent under 35  
20 U.S.C. §§ 271(a), (b), and (c);

21 DD. That Microsoft, its officers, agents, servants, employees and attorneys, and those  
22 persons in active concert or participation with them be preliminarily and permanently restrained  
23 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '912 patent;

24 EE. That Microsoft be adjudged to have infringed the '721 patent under 35 U.S.C. §  
25 271(a);

26 FF. That Microsoft be adjudged to have infringed the '721 patent under 35 U.S.C. §  
27 271(b) by inducing others to infringe directly the '721 patent under 35 U.S.C. § 271(a);

28 ///

1 GG. That Microsoft be adjudged to have contributorily infringed the '721 patent under  
2 35 U.S.C. § 271(c);

3 HH. That Microsoft be adjudged to have willfully infringed the '721 patent under 35  
4 U.S.C. §§ 271(a), (b), and (c);

5 II. That Microsoft, its officers, agents, servants, employees and attorneys, and those  
6 persons in active concert or participation with them be preliminarily and permanently restrained  
7 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '721 patent;

8 JJ. That Microsoft be adjudged to have infringed the '019 patent under 35 U.S.C. §  
9 271(a);

10 KK. That Microsoft be adjudged to have infringed the '019 patent under 35 U.S.C. §  
11 271(b) by inducing others to infringe directly the '019 patent under 35 U.S.C. § 271(a);

12 LL. That Microsoft be adjudged to have contributorily infringed the '019 patent under  
13 35 U.S.C. § 271(c);

14 MM. That Microsoft be adjudged to have willfully infringed the '019 patent under 35  
15 U.S.C. §§ 271(a), (b), and (c);

16 NN. That Microsoft, its officers, agents, servants, employees and attorneys, and those  
17 persons in active concert or participation with them be preliminarily and permanently restrained  
18 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '019 patent;

19 OO. That Microsoft be adjudged to have infringed the '876 patent under 35 U.S.C. §  
20 271(a);

21 PP. That Microsoft be adjudged to have infringed the '876 patent under 35 U.S.C. §  
22 271(b) by inducing others to infringe directly the '876 patent under 35 U.S.C. § 271(a);

23 QQ. That Microsoft be adjudged to have contributorily infringed the '876 patent under  
24 35 U.S.C. § 271(c);

25 RR. That Microsoft be adjudged to have willfully infringed the '876 patent under 35  
26 U.S.C. §§ 271(a), (b), and (c);

27 ///

28 ///

1 SS. That Microsoft, its officers, agents, servants, employees and attorneys, and those  
2 persons in active concert or participation with them be preliminarily and permanently restrained  
3 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '876 patent;

4 TT. That Microsoft be adjudged to have infringed the '181 patent under 35 U.S.C. §  
5 271(a);

6 UU. That Microsoft be adjudged to have infringed the '181 patent under 35 U.S.C. §  
7 271(b) by inducing others to infringe directly the '181 patent under 35 U.S.C. § 271(a);

8 VV. That Microsoft be adjudged to have contributorily infringed the '181 patent under  
9 35 U.S.C. § 271(c);

10 WW. That Microsoft be adjudged to have willfully infringed the '181 patent under 35  
11 U.S.C. §§ 271(a), (b), and (c);

12 XX. That Microsoft, its officers, agents, servants, employees and attorneys, and those  
13 persons in active concert or participation with them be preliminarily and permanently restrained  
14 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '181 patent;

15 YY. That Microsoft be adjudged to have infringed the '402 patent under 35 U.S.C. §  
16 271(a);

17 ZZ. That Microsoft be adjudged to have infringed the '402 patent under 35 U.S.C. §  
18 271(b) by inducing others to infringe directly the '402 patent under 35 U.S.C. § 271(a);

19 AAA. That Microsoft be adjudged to have contributorily infringed the '402 patent under  
20 35 U.S.C. § 271(c);

21 BBB. That Microsoft be adjudged to have willfully infringed the '402 patent under 35  
22 U.S.C. §§ 271(a), (b), and (c);

23 CCC. That Microsoft, its officers, agents, servants, employees and attorneys, and those  
24 persons in active concert or participation with them be preliminarily and permanently restrained  
25 and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '402 patent;

26 DDD. That this Court award damages to compensate InterTrust for Microsoft's  
27 infringement, as well as enhanced damages, pursuant to 35 U.S.C. § 284;

28 ///

1       EEE. That this Court adjudge this case to be exceptional and award reasonable  
2 attorney's fees to InterTrust pursuant to 35 U.S.C. § 285;

3       I'FF. That this Court assess pre-judgment and post-judgment interest and costs against  
4 Microsoft, and award such interest and costs to InterTrust, pursuant to 35 U.S.C. § 284; and

5       GGG. That InterTrust have such other and further relief as the Court may deem proper.

6 Dated: October 24, 2002.

KEKER & VAN NEST, LLP

7 By: \_\_\_\_\_

8       MICHAEL H. PAGE  
9       Attorneys for Plaintiff and Counter  
10       Defendant  
11       INTERTRUST TECHNOLOGIES  
12       CORPORATION

13                                   **DEMAND FOR JURY TRIAL**

14       Plaintiff InterTrust hereby demands a trial by jury as to all issues triable by jury,  
15 specifically including, but not limited to, the issue of infringement of United States Patent Nos.  
16 6,185,683 B1; 6,253,193 B1; 5,920,867; 5,892,900; 5,982,891; 5,917,912; 6,157,721;  
17 5,915,019; 5,949,876; 6,112,181; and 6,389,402 B1.

18 Dated: October 24, 2002

KEKER & VAN NEST, LLP

19 By: \_\_\_\_\_

20       MICHAEL H. PAGE  
21       Attorneys for Plaintiff and Counter  
22       Defendant  
23       INTERTRUST TECHNOLOGIES  
24       CORPORATION

## 1 PROOF OF SERVICE

2 I am employed in the City and County of San Francisco, State of California in the office of a  
3 member of the bar of this court at whose direction the following service was made. I am over the  
4 age of eighteen years and not a party to the within action. My business address is Keker & Van  
Nest, LLP, 710 Sansome Street, San Francisco, California 94111.

5 On October 24, 2002, I served the following document(s):

6 **FOURTH AMENDED COMPLAINT FOR INFRINGEMENT OF U.S. PATENT NOS.**  
7 **6,185,683 B1; 6,253,193 B1; 5,920,861; 5,892,900; 5,982,891; 5,917,912; 6,157,721;**  
8 **5,915,019; 5,949,876; 6,112,181; AND 6,389,402 B1**

## 9 DEMAND FOR JURY TRIAL

10 ☒ by FACSIMILE TRANSMISSION (IKON) AND UNITED STATES MAIL, by placing a true and  
11 correct copy with IKON Office Solutions, the firm's in-house facsimile transmission center provider, for  
12 transmission on this date. The transmission was reported as complete and without error. A true and correct  
13 copy of same was placed in a sealed envelope addressed as shown below. I am readily familiar with the  
14 practice of Keker & Van Nest, LLP for collection and processing of correspondence for mailing.  
According to that practice, items are deposited with the United States Postal Service at San Francisco,  
California on that same day with postage thereon fully prepaid. I am aware that, on motion of the party  
served, service is presumed invalid if the postal cancellation date or the postage meter date is more than one  
day after the date of deposit for mailing stated in this affidavit.

15 Eric L. Wesenberg, Esq.  
16 Mark R. Weinstein, Esq.  
17 Orrick Herrington & Sutcliffe  
18 1000 Marsh Road  
Menlo Park, CA 94025  
Telephone: 650/614-7400  
Facsimile: 650/614-7401

John D. Vandenberg, Esq.  
James E. Geringer, Esq.  
Kristin L. Cleveland, Esq.  
Klarquist Sparkman Campbell, et al.  
One World Trade Center, Suite 1600  
121 S.W. Salmon Street  
Portland OR 97204  
Telephone: 503/226-7391  
Facsimile: 503/228-9446

20 I declare under penalty of perjury under the laws of the State of California that the above is true  
21 and correct.

22 Executed on October 24, 2002, at San Francisco, California.

23   
24 NOELLE S. NICHOLS  
25  
26  
27  
28

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